Supreme Court, U.S.
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No.

In The

Supreme Court of the United States

October Term, 1996

JAMES A. HINCHLIFFE,

Petitioner,

vs.

COMMONWEALTH OF PENNSYLVANIA

Respondents.

Petition for a Writ of Certiorari to the
SUPREME COURT OF PENNSYLVANIA

PETITION FOR A WRIT OF CERTIORARI

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16 pp

QUESTION(S) PRESENTED

1. Is a landowner entitled to work, maintain and harvest on and from his property?

2. Does a landowner who has well maintained his property for many years in the growing of WILD FLOWERS, under an ordinance that requires cutting within 20 feet of boundary lines retain standing to challenge the so called new ordinance that requires cutting of not 20 feet, but 200 feet, which is ten times the distance of the said 20 feet ordinance and in this case 200 feet from each side equals 400 feet and 200 feet from front and 200 feet from rear again equals 400 feet and would therefore eliminate essentially all WILD FLOWERS from the subject property?

3. Does a landowner retain standing to challenge a so called new ordinance in that in enforcement of said new ordinance and in its own terms is contradictory to what the said ordinance reads in allowing WILD FLOWERS to grow more than 6 inches in height?

4. Did the Borough's Deputy Health Officer, and a Borough councilman and Chairman of Public Safety understand the content of the ordinances and did they understand what is meant by ornamental or useful in said ordinance?

LIST OF PARTIES

In accordance with United States Supreme Court Rule 14.1(b), the names of all parties in this case appear in the caption of the judgment order of the Court of Appeals on the cover page.

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1996

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

The November 1, 1996, Order of the Supreme Court Of Pennsylvania Eastern District appears at (Appendix A) to the petition. The Order of the Commonwealth Court Of Pennsylvania dated April 26, 1996, appears at (Appendix B) to the petition. The January 8, 1997, Order of the Supreme Court Of Pennsylvania Eastern District appears at (Appendix C) to the petition.

JURISDICTION

This petition is filed within 90 days of the entry of the Supreme Court Of Pennsylvania Eastern District Order dated January 8, 1997. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §1254(1).

STATEMENT OF THE CASE

This case involves a person's right to work and maintain his land and or property in the nurturing of WILD FLOWERS and without having to prove constitutionality to do so.

The landowner has for many years maintained the subject property under the ordinance.

Plants of useful or ornamental purpose in accordance with the Borough ordinance are all allowed to grow in excess of six inches.

Many of the ornamental WILDFLOWERS must be allowed to grow in excess of six inches in order to blossom and to re-seed, such as the wild sweet pea, wild lily, wild sunflower, black eyed Susan, miniature cornflower, common daisy, dwarf daisy (of which even the dwarf daisy and the miniature cornflower only blossoms at a height in excess of six inches), and all of the above named WILDFLOWERS grow on the subject property, as do a large variety of other and many kinds of WILDFLOWERS, and under the constant awareness and monitoring of and by the landowner.

WILDFLOWER growth is very important.

However it is clear that the Borough witnesses do not have a understanding of the content of the Borough ordinance and or any understanding of and concerning WILDFLOWERS, as evidenced by the taken testimony of the Borough witnesses.

The landowner's belief and understanding is

that, both the former ordinance and the new ordinance (changed from 20' to 200'), both allow him to allow plant growth in excess of six inches and that the Borough officials lack understanding of what the ordinance allows, and due in part to the Borough officials lack of understanding as to plants and vegetation.

As a result of the Borough officials lack of understanding, they have taken action against the landowner.

The landowner, on the other hand, and due to his understanding of plants and vegetation and his understanding of the ordinances, has always acted accordingly.

The Borough officials must be educated in and concerning the tremendous values of plant life.

There is conflict in this matter below, as to call for an exercise of the power of supervision of the Supreme Court of the United States.

REASONS FOR GRANTING THE PETITION

By use of the United States Supreme Court's supervisory power, important questions will be answered that both the Supreme Court of the state of Pennsylvania and the state court failed to or were unable to answer.

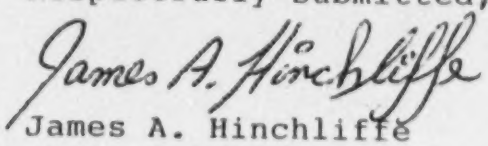
Perhaps and in fact the Supreme Court of the United States has or gains a full jurisdiction over this matter where the ordinance decision or its misapplication is irrational in the strict sense, or prompted by invidious political or discriminatory motives.

If this Court ceases to support and require that provision for WILD FLOWERS remains in the new ordinance as it was in the old ordinance,.. .. then we will have licensed a means to exclude substantially from the Commonwealth the option of growing and allowing to grow WILD FLOWERS.

CONCLUSION

For the foregoing reasons, this Court should grant the Petition and should issue a writ of certiorari to the Supreme Court Of Pennsylvania Eastern District.

Respectfully submitted,



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